



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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October 18, 2015

Ms. Suzanne B. Herron, P.E.,
CPESC Director
Environmental Division
Tennessee Department of Transportation
505 Deaderick Street, Suite 900
Nashville, TN 37243

SUBJECT: Final Environmental Impact Statement (FEIS) for the Pellissippi Parkway Extension, Blount County, Tennessee. CEQ No. 20150264, ERP Number FHW-E40831-TN.

Dear Ms. Herron:

The US Environmental Protection Agency (EPA) has completed its review of the above FEIS pursuant to its Clean Air Act Section 309 requirement to review and comment in writing on all EISs prepared by all Federal agencies and in accordance with Section 102(2)(C) of the National Environmental Policy Act (NEPA). The EPA evaluates all draft EISs based on a set of criteria,¹ which are the basis for EPA's recommendations to lead agencies for improvements in their FEIS. The EPA rated the draft EIS (DEIS) with an "EC-2" rating meaning that we had environmental concerns and requested additional information. The proposed action will be a new, 4.38-mile, four-lane divided roadway. It will be constructed with two 12-foot travel lanes in each direction, 12-foot outside shoulders, and a 48-foot depressed median with 6-foot inside shoulders, designed for 60 mph speed. The proposed right-of-way (ROW) is 300 feet, minimum, requiring the purchase of new ROW.

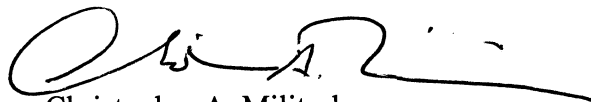
The EPA finds its earlier recommendations to the Federal Highway Administration (FHWA) and Tennessee Department of Transportation (TDOT) remain largely unaddressed in the FEIS. The purpose and need statements are not supported by the environmental information, nor does FHWA/TDOT make any analysis or conclusions that they do. The provided environmental information suggests that the proposed action could detrimentally impact the identified need for certain corridors. This has not been evaluated in the FEIS. Additionally, the alternatives do not appear to be rigorously explored nor objectively evaluated as required by the Council on Environmental Quality's (CEQ's) NEPA regulations.

¹ EPA's Environmental Impact Statement Rating System Criteria can be found at <http://www2.epa.gov/nepa/environmental-impact-statement-rating-system-criteria>

The EPA notes that the least environmentally damaging practicable alternative (LEDPA) was not selected by the transportation agencies. The Clean Water Act (CWA) Section 404(b)(1) guidelines requires applicants to avoid and minimize impacts to waters of the U.S. The EPA strongly recommends that the FHWA/TDOT consider the selection of a different Preferred Alternative that represents the LEDPA (Please see the attached detailed comments). The proposed action will directly impact four CWA 303(d) listed impaired streams and indirectly impact a fifth listed stream that has been identified as a threatened waterbody and a public water supply. These impaired streams are subject to total daily maximum loadings (TMDLs) for both pathogen and sediment related issues. Impacts to this impaired waters should be avoided and minimized to the extent practicable.

The proposed new location project will also impact an environmental justice (EJ) community and a significant amount of prime farmlands. The EPA has environmental objections to the 'Preferred Alternative' as currently proposed and requests that the transportation agencies consider other less environmentally damaging alternatives prior to the issuance of the Record of Decision (ROD). The EPA also recommends that the transportation agencies consider appropriate avoidance and minimization measures for all new location alternatives including but not limited to the bridging of streams and wetlands, reducing the median and/or shoulder widths, installation of properly designed stormwater management devices, and roadway re-alignments to avoid the EJ community. For any questions regarding the EPA's review of this FEIS, please contact Beth Walls (walls.beth@epa.gov or 404-562-8309) of my staff.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris A. Militscher', with a long horizontal flourish extending to the right.

Christopher A. Militscher
Chief, NEPA Program Office
Resource Conservation and Restoration Division
USEPA Region 4

Attachment: EPA detailed comments

Cc: Tony Able, Chief, Wetlands Streams Regulatory Section, USEPA w/attachment

**EPA Detailed Comments on the Final Environmental Impact Statement (FEIS)
Pellissippi Parkway (SR162), from SR 33 (Old Knoxville Highway to US 321/SR73/Lamar
Alexander Parkway, Blount County, Tennessee.
CEQ No. 20150264, ERP Number FHW-E40831-TN.**

BACKGROUND

NEPA History: In 1999, the TDOT initiated a NEPA Environmental Assessment for the proposed action. In 2002 after the FHWA issued its EA/FONSI, the TDOT initiated property acquisition. The Citizens against Pellissippi Parkway Extension filed a lawsuit. This lawsuit caused the FHWA to prepare an EIS. In 2006, the FHWA issued its Notice of Intent to prepare an EIS. Also in 2006, the TDOT conducted its original traffic study. From 2006 – 2008, the TDOT conducted project-related public information meetings. In 2009, the TDOT used a 2006 license-plate survey to calibrate its 2006 traffic forecast. In 2010, the FHWA approved the TDOT's prepared DEIS for public review (May) and a public hearing was held (July). In 2011, the TDOT updated its 2006 traffic study. In 2012, the preferred alternative was selected. In 2013, the preferred alternative was realigned to avoid an archaeological site of significance. In 2014, the FHWA determined a Supplemental EIS was unnecessary because of the TDOT's traffic study updates and its Preferred Alternative realignment would not result in significant environmental impacts. In 2015, this FEIS was released for public review.

Project Description: The preferred alternative will connect to SR 33, on the east side opposite the existing half interchange with the existing Pellissippi Parkway. From SR 33 it will cross former farmlands, currently being developed into the Pellissippi Place Research and Technology Park. It will follow a generally easterly and southeasterly path to Wildwood Road. After crossing Wildwood Road, the alignment will continue in a generally southerly direction, crossing Brown School Road and US 411/Sevierville Road east of the Davis Ford Road intersection with US 411. The alignment will continue across Davis Ford Road, passing along the northeastern edge of the Kensington Place mobile-home park, and intersect/terminate at US 321 just east of Flag Branch. The proposed action will be a new, 4.38-mile, four-lane divided roadway. It will be constructed with two 12-foot travel lanes in each direction, 12-foot outside shoulders, and a 48-foot depressed median with 6-foot inside shoulders, designed for 60 mph speed. The proposed right-of-way (ROW) is 300 feet, minimum, requiring the purchase of new ROW. Actual ROW acquisition could be reduced or increased in some areas. It will contain three interchanges: with SR 33, US 411, and US 321.

Environment Impacts: Of the alternatives considered, the FHWA/TDOT's 'Preferred Alternative' requires the least number of miles to construct, impacts the second largest number of ROW acres, represents the third largest impact to residential/businesses, and impacts the most farmland and waters of the US. It will require an estimated 200 acres of new ROW impacting 110 acres of farmland, including 34 acres of prime farmland. It will force 11 residential and one business relocations, including 6 mobile homes in the identified environmental justice area, Kensington Place Community. It will impact 70 "noise receptors" including 61 people living in the Kensington Place Community. The TDOT has committed to construct a noise wall to minimize these noise impacts. Of all alternatives evaluated, the FHWA/TDOT's 'Preferred Alternative' has the greatest impacts to waters of the U.S. It will impact 11.0 acres of

floodplains, 4,962 feet of streams, and 8.72 acres of wetlands and their associated aquatic ecosystems. Moreover, the proposed action will directly impact four CWA 303(d)-listed impaired streams and indirectly impact a fifth. These four impaired streams are subject to total daily maximum loadings (TMDLs) for both pathogen and sediment related issues. The fifth stream is listed as threatened because of impacts to biological diversity. It also serves as the drinking water supply for the area.

EPA's RECOMMENDATIONS

Purpose and Need: deficient circumferential road system. According to the FHWA/TDOT, *"Maryville currently has a deficient circumferential road system because traveling between the northwestern and the eastern portions of Blount County requires the use of portions of US 129, Broadway Avenue segment of SR 33, or Hall Road and Washington Street segments, and US 321"*. According to the FHWA/TDOT, an undefined but *"substantial movement of traffic must travel through the Maryville core"*. The EPA does not understand how the FHWA/TDOT's traffic studies support its finding that "substantial" movement of traffic must travel through the Maryville core. The FHWA/TDOT's average annual daily traffic (AADT) studies do indicate the heaviest traffic volumes lie outside of the Maryville core (i.e., on the SR 115 segment of US 129, west of the Maryville core and the US 129 Bypass southwest of the Maryville core). Moreover, the FHWA/TDOT's traffic studies do not support a finding that the Proposed Action will alleviate any traffic movement through the Maryville core. The EPA recommends that FHWA/NCOT consider the following examples:

Example #1 in vicinity of the Maryville core, the FHWA/TDOT forecast a 7-percent increase in AADT for the Washington Street segment of SR 35, which is half of the 15-percent forecasted increase in AADT for the SR 35 - US 321 intersection. In the vicinity of this intersection is the Blount Memorial Hospital Complex and the Maryville College campus. The FHWA/TDOT do not conclude the proposed action will address this forecasted AADT increase. Moreover, the FHWA/TDOT did not interpret this increase in AADTs warranted a corridor Level of Service (LOS) analysis for this segment. Furthermore, the US 321 LOS analysis indicates "green" for good, including its intersection with SR 35. Additionally, the development on US 321 is also concentrated near the Maryville core.

Example #2, access to the Foothills Mall area requires traffic to continue south on US 321 past its intersection with SR 35. The Foothills Mall lies south of US 321, west of US 129, and north of US 411, all of which are southwest of Maryville's core. The FHWA/TDOT state *with the Preferred Alternative*, US 321 from its junction with SR 33 east of Foothill Parkway *"shows a decline in forecasted traffic"*. However, the proposed action's geographical location precludes it from having any impact to any traffic in the Foothills Mall area. The Preferred Action connects the existing Pellissippi Parkway, north of Maryville's core, tends southeast to intersect US 321 north and east of Maryville's core.

Example #3: The FHWA/TDOT forecast a 23-27 percent increase in AADT for the Broadway Avenue segment of SR 33, between SR 35 and SR 335. This segment lies north of the Maryville Core. The growth on this segment was insufficient to warrant a LOS analysis. The forecasted increase in AADT might reflect growth in the residential community of Eagleton Village, which

lies just south of the new Pellissippi Place Research and Technology Park, and north of the Maryville core. The Park is located on the opposite (east) side of the Pellissippi Parkway exchange with SR 33, where the parkway terminates. The Village is located between the intersections of SR 33 with Wildwood and SR 335. Like the Park tenants, the Village residents can travel from SR 33 to SR 335 to access the commercial/industrial area along SR 335 and the McGhee Tyson Airport where SR 335 terminates into US 129.

Example #4: The FHWA/TDOT's forecast for the Wildwood Road segment between the Pellissippi Place Access Road and Sam Houston School Road, does not demonstrate substantial movement of traffic must travel through the Maryville core. Wildwood intersects SR 33 north of the Maryville Core.² It does not connect to the Pellissippi Place Access Road. The Preferred Action is proposed to intersect Wildwood Road. This referenced Wildwood segment is northeast of the proposed action, northeast of Eagleton Village, and in a rural area containing large tracts of farmland. Given the existence of these large tracks of farmland, it is unclear how "substantial" the forecasted 62% increase in AADT actually is for this segment of Wildwood Road, which is alleged to be 58% lower than the 'No Action'. The FHWA/TDOT did not provide actual AADT numbers for this segment as it did for the others. The EPA cannot ascertain the reasoning for this omission.

Purpose and Need: *northwest/east connection east of Alcoa and Maryville to serve expanding residential development occurring in eastern Alcoa and Maryville and northeastern Blount County.* The FHWA/TDOT does not conclude from their travel and growth studies that the proposed action will address this reported need. The FHWA/TDOT should consider the evaluation of the updated projections that substantial growth has been moving east from US 129 past SR 33 and moving south from Wildwood Road toward the southern city limits of Maryville. The proposed action is geographically north of this described substantial growth. The provided map indicates growth radiates out from but concentrated around the Maryville core, particularly along the major highways: US 129, SR 33, US 411, and US 321.

Purpose and Need: *demand for trips between Maryville and Alcoa and the Knoxville area to the north as shown by current high traffic volumes between the areas on US 129 (approximately 40,090 vehicles per day) and SR 33 (approximately 6,230 vehicles per day).* The FHWA/TDOT do not conclude the proposed action will address the above reported demand for trips. The FHWA/TDOT trip origin study indicates 88.7 percent of trips within the study area are local in nature or have a different origin/destination than traveling between the Maryville and Alcoa area and Knoxville. Moreover, the FHWA/TDOT's AADT data indicate that the highest traffic volumes occur on the SR 115 segment of US 129, which lies south of the existing Pellissippi Parkway and north of SR 35. Additionally, the FHWA/TDOT's AADT data also indicates that the highest traffic volumes are on the Old Knoxville Highway segment of SR 33, which also lies south of the existing Pellissippi Parkway and north of SR 335. These high traffic volumes are all contained within the Alcoa and Maryville area.

Purpose and Need: *safety issues on roadways in the area.* The FHWA/TDOT do not conclude from their travel studies that the proposed action will address the safety issues on existing

² Moreover, FHWA/TDOT's AADT indicates the heaviest traffic volume on SR 33 lies north of the Wildwood Road intersection with SR 33, not south toward the Maryville core.

roadways. The FHWA/TDOT's LOS analysis does not demonstrate any improvements associated with the proposed action. The EPA contends that the proposed action will merely provide a new road in a largely unpopulated area of large tracts of farmland which will then be connected to the congested areas around SR 33 and US 129. From other transportation projects, it is generally known to the EPA and other agencies that building new roadways does not necessarily correct safety conditions on existing roadways.

Purpose and Need: *traffic congestion and poor levels of traffic operation on major arterial roads (in particular US 129, SR 33, and US 411) and intersections in the study area.* The FHWA/TDOT do not conclude from their travel studies the proposed action will address traffic congestion and poor levels of traffic operation. The FHWA/TDOT has not demonstrated this situation exists except for the SR 115 segment of US 129. The geographic location of the proposed action precludes it from potentially alleviating this problem for the SR 115 segment. Additionally, the FHWA/TDOT do not conclude nor explain how the proposed action will address their identified red (bad) segments of its LOS. For example, the red segments identified on US 411, Wildwood Road, US 129, and SR 33. The FEIS does not fully explain how the proposed action may impact the LOS on the existing Parkway and US 129. The entire US 321 remains "green" for all of the years that were analyzed by the transportation agencies. Consequently, the need to connect to US 321, where the Preferred Action has the greatest environmental impacts, remains unexplained. The red segments on Wildwood Road (2040) and US 411 (all years) do not correspond with traffic issues identified on SR 35 in the Maryville core. SR 35 is 'green' LOS on the Hall Road segment but the Washington Street segment was not studied. However, Washington Street is in the Maryville core. Regarding the red segments of the Intersection LOS, it is unclear how the proposed action will impact all the "red" intersections. Moreover, it is unclear whether a study to improve traffic signal synchronizing or replacing stop signs with traffic signals might prove to be a more effective alternative. The EPA notes that a traffic signal/management study was not performed and included in the FEIS

Purpose and Need: *Pellissippi Place Research and Technology Park.* According to the FHWA/TDOT, local officials see the extension of Pellissippi Parkway as an important component in the financial viability of Pellissippi Place, a mixed-use development. The FHWA/TDOT has not demonstrated the need to connect Pellissippi Place to large tracts of rural, farmland for its viability.³ The EPA notes the 'Park's' November of 2008 opening, but that the anchor tenant, Pronova Solutions, ceremonially broke ground on its new headquarters, research facility and production plant in August of 2013.⁴

Alternatives Analysis

The EPA strongly encourages FHWA/TDOT to select the least environmentally damaging practicable alternative (LEDPA) pursuant to the Clean Water Act (CWA) section 404(b)(1)

³ Pellissippi Place Opens, Anchors High Tech Future of Knoxville-Oak Ridge Innovation Valley <http://www.prnewswire.com/news-releases/pellissippi-place-opens-anchors-high-tech-future-of-knoxville-oak-ridge-innovation-valley-101838938.html>

⁴ ProNova to anchor Pellissippi Place, Aug. 13, 2013, <http://www.knoxnews.com/business/pronova-to-anchor-pellissippi-place>

guidelines (the Mitigation Rule, 40 CFR Part 230). The Mitigation Rule requires the US Army Corps of Engineers (USACE) to consider whether the proposed project represents the LEDPA. Both the USACE and the EPA follow the Mitigation Rule's defined process prior to the issuance of a 404 permit.⁵ This Rule requires a sequential, four step consideration. The first step requires the applicant to rebut the Mitigation Rule's presumption of the existence of a LEDPA (40 CFR 230.10(a)).⁶ The FHWA/TDOT have shown in the FEIS that the Preferred Alternative has the greatest impacts to streams, wetlands, and floodplains of all the alternatives evaluated. The FHWA/TDOT identified three other alternatives with less impacts to aquatic resources and waters of the U.S. Furthermore, in contrast to the Preferred Alternative, Alternatives C and D appear to avoid the identified environmental justice community. The TDOT indicates it ruled out Alternatives C and D for archaeological-resource purposes. However, the TDOT's Preferred Alternative is a realignment to avoid an archaeological site.

The EPA recommends that the FHWA/TDOT re-evaluate the Preferred Alternative for one that terminates at US411, instead of US 321, or select an alternative that avoids and minimizes impacts to waters of the U.S., the environmental justice community and prime farmlands. A 'US 411' alternative would avoid impacts to Gravelly Creek and Flag Branch, just upstream of their confluence with each other, and their confluence with Crooked Creek (which in turn confluences with the Little River). The proposed segment of the Preferred Alternative between US 411 and US 321 would impact these waterbodies and their associated aquatic ecosystems. As correctly stated in the 2010 DEIS, Crooked Creek, Gravelly Branch, and Flag Branch were all listed on the 2008 303(d) list of streams for not meeting their designated uses. The FHWA/TDOT incorrectly states in the FEIS that Crooked and Gravelly Creeks are no longer listed as impaired. These water bodies are subject to total maximum daily loads (TMDLs) for siltation and pathogens. Moreover, the downstream receiving stream, the Little River has been identified as "threatened" due to a documented decline in diversity at biological stations.⁷ Furthermore, a 'US 411' alternative avoids impacts to residents of Kensington Place, an environmental justice community, including noise and avoids the need (and costs) to construct a noise barrier.

The EPA also recommends that the FHWA/TDOT re-evaluate its Preferred Alternative for the proposed Pellissippi Place Access Road Extension. The 'Extension' is listed in the Regional Mobility Plan Projects for the Project Area. As described, the Extension proposes to widen an existing two-lane road to four, between the existing Parkway's terminus with SR 33 and

⁵ The 1990 Memorandum of Agreement on the Determination of Mitigation under the Clean Water Act Section 404(b)(1) Guidelines between the EPA and the Corps, later codified in 2008 as the "Mitigation Rule" (Compensatory Mitigation for the Loss of Aquatic Resources; Final Rule, 40 CFR Part 230).

⁶ The remaining three steps are sequentially ordered as follows. Second, the applicant must demonstrate compliance with water-quality standards, toxic-effluent standards, endangered-species habitat, or designated marine sanctuaries. 40 CFR 230.10(b). Third, the applicant must determine whether the requested discharge of fill material will cause significant degradation,⁶ e.g., of the aquatic ecosystem. 40 CFR 230.10(c). After the three previous steps have been adequately evaluated, the potential for appropriate compensatory mitigation is assessed. The Mitigation Rule prohibits discharges unless all appropriate and practicable steps have been taken to minimize potential adverse impacts of the discharge on the aquatic ecosystem. 40 CFR 230.10(d). After impacts have been fully minimized, compensatory mitigation (e.g. aquatic restoration, enhancement, creation, or in certain circumstances, preservation) may be required to offset unavoidable losses.

⁷ Proposed Final Version Year 2014 303(d) List (Oct. 2014) available at <http://www.tennessee.gov/assets/entities/environment/attachments/2014-proposed-final-303d-list.pdf>

Wildwood Road. It also includes a center median lane. The Preferred Alternative proposes to extend the existing Parkway from its terminus with SR 33 to US 321 as a new, four-lane divided highway with three interchanges: SR 33, US 411, and US 321. Because Wildwood Road lies between SR 33 and US 411, it will be crossed by the Preferred Alternative. The two alternatives overlap between SR 33 to Wildwood Road. The proposed Pellissippi Place Access Road Extension has less environmental impacts than the above proposed new alternative. Moreover, the 'Expansion Project' is on the Regional Mobility Plan and it should be described in the FHWA/TDOT's 'No Action' alternative discussions. The FHWA/TDOT indicate this was the only project in the Mobility Plan that was not included in the "select link analyses."

The EPA requests that the FHWA/TDOT consider the Council on Environmental Quality (CEQ) requirement that all alternatives be rigorously explored and objectively evaluated (40 CFR 1502.14(a)). The alternatives analysis should present the environmental impacts of the proposal and the alternatives in comparative form, thus, *"sharply defining the issues and providing a clear basis for choice among options by the decision-maker and the public. A decision-maker must, in fact, consider all the alternatives discussed in an EIS."*⁸ (40 CFR 1505.1(e)).

The EPA previously recommended in its 2010 DEIS comments, for the TDOT to *"...look at the measures that would be required by alternative [to avoid impacts to streams], the unavoidable impacts by alternative and the effectiveness of measures by alternatives."* The TDOT's response in the FEIS is noted: *"A comparison by alternative of measures to avoid impacts, unavoidable impacts and effectiveness of measures would not likely assist in the determining of the selection of the Preferred Alternative."* This assertion contradicts CEQ's NEPA implementing regulations.

The FHWA/TDOT did not provide consistent traffic analysis and environmental information for all the alternatives considered which made its evaluation of the 'CEQ-required alternative comparisons' difficult. As a general example, Alternative D's environmental impacts are inaccurately stated. The FHWA/TDOT stated that Alternative D *"affects more linear feet of ecologically diverse downstream reaches compared with Alternatives A or C"*. Additionally, the FHWA/TDOT also stated that, *"the Sam Houston Road portion [of Alternative D] is near a bend in the Little River, which is the County's primary source for drinking water and a designated Exceptional Tennessee Water"*. Regarding the *Exceptional Tennessee Water* designation, it is the Little River segment within the Great Smoky Mountains that is classified by the Tennessee Department of Environment and Conservation (TDEC) as an Outstanding National Resource Water (ONRW) and an ecoregion reference site.⁹ The *ecological diverse downstream reaches* and the *Exceptional Tennessee Water* designations do not occur in the Little River segment flowing through the FHWA/TDOT's study area, specifically north of Alternative D. Within the FHWA/TDOT's study area, the State has identified the Little River as "threatened" due to a documented decline in diversity at biological monitoring stations for a 17.6-mile segment.¹⁰ This river segment supports several protected aquatic species, provides municipal

⁸ NEPA's 40 Most Asked Questions, prepared by CEQ and available at http://www.fws.gov/r9esnepa/NEPA_Handbook/40_Asked_Questions.pdf

⁹ http://www.littleriverwatershed.org/?page_id=49

¹⁰ Proposed Final Version Year 2014 303(d) List (Oct. 2014) available at <http://www.tennessee.gov/assets/entities/environment/attachments/2014-proposed-final-303d-list.pdf>

water for most of Blount County, and is heavily used for recreational purposes. Three creeks – Pistol, Short and Crooked Creeks join the Little River in the vicinity of the drinking water supply segment. All three are listed as impaired waters. Their impairments have contributed to the Little River’s “threatened status.” The pollutants of concern, which will also be associated with the proposed action, are siltation, land development, urban runoff/storm sewers, and nutrients.¹¹ The proposed action will increase stormwater runoff and associated pollution impacts to the drinking water supply and protected aquatic species. Moreover, the Preferred Action’s intersection with US 321 will likely have direct construction and operation impacts to two impaired streams, Flag Branch and Gravelly Creek, directly above their confluence with Crooked Creek, and from there, will impact the Little River. The EPA understands that Alternative D impacts 1,695 linear stream feet: 3,237 feet less than the Preferred Alternative (PA), 2,060 feet less than the original PA with the East shift, 2,622 feet less than the original PA, and 925 feet less than Alternative C.

Environmental Impacts

Environmental Justice: The FHWA/TDOT do not address the proposed action’s potential impacts to the affected Kensington Place community’s ingress and egress on/from US 321 or potential air toxics impacts to residents, particularly children. The EPA remains concerned regarding TDOT’s lack of analysis related to Mobile Source Air Toxics (MSATs). The alternatives being considered under the NEPA process can and should be properly compared using their potential impacts related to MSATs as one of the measures for comparison at the project level. The EPA believes that existing tools are adequate to compare the potential impacts of different alternatives as part of the NEPA analysis. The TDOT has committed to construct a noise barrier along the Kensington Place Community. However, The TDOT did not identify the anticipated reduction in noise associated with this barrier. Even with the proposed mitigation, the noise could still be above unacceptable levels. Depending on the build alternative selected, 64-110 residences will be impacted by noise. And 25-86 residences will have substantial increases in noise impacts because residences will have noise levels elevated above the TDOT’s threshold of greater than 10 dBA (A-weighted decibel). Additionally the FHWA’s noise regulations, 23 CFR 772.11(f), require “*views of the impacted residents will be a major consideration in reaching a decision on the reasonableness of abatement measures to be provided*”. A noise barrier should have been compared to views of the Great Smokey Mountains.

The FHWA/TDOT state: “*Since the Kensington Place mobile home community is not completely occupied, displaced residents who want to stay within their existing community may be able to relocate to one of the numerous site pads available, if they so choose*”. This relocation will incur a cost and one that the FHWA/TDOT have not identified as a project relocation expense.

Mitigation Measures: The EPA acknowledges that the FHWA/TDOT discussed mitigation measures. However, these mitigation measures are not included in the FEIS’ Environmental Commitments section. The EPA requests these mitigation measures be included in the Record of Decision (ROD) as environmental commitments. Similarly, the EPA requests that the proposed floodplain mitigation measures be included in the ROD as environmental commitments despite

¹¹ Blount County Water Quality Plan, April 2003, prepared by the Blount County Planning Department, available at <https://www.blounttn.org/Planning/wq4%20plan%20approved%204-03.pdf>

their status as “standard procedure.” The EPA also recommends that the ROD address CEQ’s Guidance on the appropriate use of mitigation and monitoring.¹²

Greenhouse Gas (GHG) Emissions: The EPA recommends that the FHWA/TDOT address the proposed action’s GHG impacts in context of CEQ’s draft 2014 Climate Change Guidance.¹³ The FHWA/TDOT have not evaluated the GHG emissions associated with road construction and maintenance. Moreover, the metric Tennessee Motor Vehicles used is a statewide number. However, out-of-state visitors to the area including tourism may not be reflected in this number. Furthermore, the proposed action converts land uses currently conducive to CO₂ sequestration and storage. CEQ recommends agencies attribute, *“specific climate impacts to individual projects through the use of projected GHG emissions, potential changes in carbon sequestration and storage, as the proxy for assessing a proposed action’s potential climate change impacts.”* (40 CFR §§ 1502.16, 1508.9). *The agency can then present the environmental impacts of the proposed action in clear terms and with sufficient information to make a reasoned choice between the no-action and proposed alternatives and mitigations, and ensure the professional and scientific integrity of the discussion and analysis.”* (40 CFR §§ 1500.1, 1502.24).

The CEQ recognizes that: *“many agency NEPA analyses to date have concluded that GHG emissions from an individual agency action will have small, if any, potential climate change effects. Government action occurs incrementally, program-by-program and step-by-step, and climate impacts are not attributable to any single action, but are exacerbated by a series of smaller decisions, including decisions made by the government.”*¹⁴ *Therefore, the statement that emissions from a government action or approval represent only a small fraction of global emissions is more a statement about the nature of the climate change challenge, and is not an appropriate basis for deciding whether to consider climate impacts under NEPA. Moreover, these comparisons are not an appropriate method for characterizing the potential impacts associated with a proposed action and its alternatives and mitigations. This approach does not reveal anything beyond the nature of the climate change challenge itself: the fact that diverse individual sources of emissions each make relatively small additions to global atmospheric GHG concentrations that collectively have huge impact”.*

The TESA Concurrence Process: The EPA recommends that the FHWA/TDOT’s ROD appropriately reflect the EPA’s inability to concur with any of the proposed action’s concurrence points. According to the TDOT, the EPA **concurred** with TESA’s Concurrence Point (CP) 1 (Purpose and Need of the Project and Study Area), CP 2 (Alternatives to be Evaluated in the DEIS), CP 3 (Preliminary DEIS), and CP 4 (Preferred Alternative and Preliminary Mitigation). And EPA’s comments were incorporated into the DEIS and have been incorporated into the

¹² Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact (January 14, 2011) MEMORANDUM FOR HEADS OF FEDERAL DEPARTMENTS AND AGENCIES available at <http://energy.gov/nepa/downloads/appropriate-use-mitigation-and-monitoring-and-clarifying-appropriate-use-mitigated>

¹³ Revised Draft Guidance for Greenhouse Gas Emissions and Climate Change Impacts <https://www.whitehouse.gov/administration/eop/ceq/initiatives/nepa/ghg-guidance>

¹⁴ CEQ cited *Massachusetts v. EPA*, 549 U.S. 497, 523-25, (2007) (“Agencies, like legislatures, do not generally resolve massive problems in one fell regulatory swoop. They instead whittle away at them over time, refining their preferred approach as circumstances change and as they develop a more nuanced understanding of how best to proceed.”).

DEIS. The EPA notes that any TESA-related concurrence forms were signed in 2008 and before substantially changes were made to the proposed project. Furthermore, the changes that have been made since 2008 are significant. More importantly, the EPA's 2010 Parkway DEIS formal comments indicate that it **does not concur** with any of the above concurrence points. The EPA's 2010 DEIS recommendations have not been, for the most part, incorporated into the FEIS. The EPA recommends that the ROD reflect the above factual statements.